

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:05CR216
	§	
QUINCY LEE HENDERSON	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 12, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Jennifer Bray.

On November 16, 2006, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 72 months imprisonment to run concurrent to the defendant's undischarged terms of imprisonment in Case Nos. 52432, 53472, and 53473 in the District Court of Grayson County, Texas, to be followed by a three-year term of supervised release for the offense of felon in possession of a firearm. Defendant began his term of supervision on October 27, 2011. Following his revocation, this new term of supervised release began on March 29, 2013. On August 30, 2012, the case was transferred to the Honorable Marcia A. Crone, United States District Judge.

On August 1, 2013, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the “Petition”) (Dkt. 43). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer; (3) Defendant shall refrain from any unlawful use of a controlled substance; (4) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer; (6) Defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) On or about July 3, 2013, Defendant was arrested by the Sherman, Texas, Police Department and charged with Failure to Identify Giving False/Fictitious Information as he gave a false name and date of birth. Defendant was subsequently released on July 4, 2013, on a \$1,500 surety bond. As of August 1, 2013, the charge is still pending; (2) Defendant failed to notify the probation officer within seventy-two hours of being arrested by the Sherman, Texas Police Department on or about July 3, 2013. Defendant failed to notify the probation officer within seventy-two hours of being questioned by the Allen, Texas Police Department on or about July 5, 2013; (3) On May 6, 28, and June 7, 2013, Defendant submitted a urine specimen that tested positive for marijuana. Laboratory testing confirmed said use;

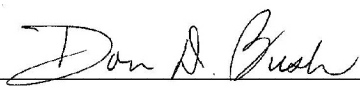
(4) On April 2, 2013, Defendant was instructed to participate in the random drug testing program and to call a notification line every day for instructions. Defendant has repeatedly failed to submit urine specimens for testing on June 21 and July 9 and 18, 2013, as part of said program; and (5) On March 19, 2012, Defendant was instructed to not associate with Chanell Bevels who has previously been convicted of a felony in the 15th District Court of Grayson County, Texas, Case No. 59118. On July 3, 2013, Defendant violated this condition and Ms. Bevels was the rear passenger in the car in which he was the front passenger, which was stopped by the Sherman, Texas, Police Department.

At the hearing, the Government withdrew the first allegation and Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the August 12, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months and one (1) day with no supervised release to follow.

SIGNED this 19th day of August, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE